

José M. González García

The Eyes of Justice

Blindfolds and Farsightedness,
Vision and Blindness in the
Aesthetics of the Law



VITTORIO KLOSTERMANN
Frankfurt am Main · 2017

recht als kultur

käte hamburger kolleg
law as culture
center for advanced study



Translation: Lawrence Schimel

Bibliographische Information der Deutschen Nationalbibliothek

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliographie; detaillierte bibliographische Daten sind im Internet über <http://dnb.dnb.de> abrufbar.

1. Auflage 2017

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Gedruckt auf alterungsbeständigem Papier  ISO 9706

Satz: post scriptum, www.post-scriptum.biz

Umschlaggestaltung: Jörgen Rumberg, Bonn

Umschlagabbildung: Werner Gephart, Multiple Justitiae
(elektronische Collage, 2016).

Druck und Bindung: docupoint GmbH, Barleben

Printed in Germany

ISSN 2193-2964

ISBN 978-3-465-04265-5

Werner Gephart

The Eyes of the Observer: Looking at José M. González García's Gaze of Justice

Those that have read this book, maybe flipped through its pages, or looked from back to front in order to follow up on signs and traces of individual symbols are deeply impressed by the author's erudition and scholarliness. One finds the further nuancing of beloved ideas – such as on Lady Justice's blindfold that can also be transparent, half-open, and potentially even legally forbidden while, in another version, dominating half of a janus-like figure – and recognizes one's heroes: Albrecht Dürer or Francisco de Goya.

But one asks oneself: how is it possible to see so much and not be blinded by the light of deep insights into the law? How does the author still achieve integrating his subtle remarks on Max Weber, Franz Kafka, or Gustav Klimt without becoming eclectic? And how is it possible to draw a broad universal-historic line from Egypt to ancient Greece and Rome to the adoption of Roman Law, consider contexts of a religious and denominational type, and incorporate tendencies of the Catholic and Protestant conceptions of the Last Judgment where beliefs or actions will be weighed on the scale – and always maintain a close connection to the pictorial objects and their context? And how is it possible here that infinite amounts of literature are deliberately woven in without ever lapsing into an overtly didactic tone? All of this with methodological restraint: Hans Blumenberg's metaphorology, Aby Warburg's interpretive art, and Erwin Panofsky's iconological approach have become so ingrained in our very praised and revered author that simply mentioning them would be inappropriate.

The author remains discreet when simply bypassing the psychologizing interpretations on the artists' supposed intentions so that he can delve into the objective image content and use potential background information in abundance. Those who had the chance to experience how he spoke of »his« pictures with such bright eyes – such as the fellows and staff at the Käthe Hamburger Center for Advanced Study in the Humanities »Law as Culture« – know that he, similarly to Goethe, is an *Augenmensch* who in this instance points his gaze onto the eyes of others. Maybe this is why Lady Justice is blindfolded: not only to preserve her virtue of impartiality and lack of corruptibility, but also because we cannot even bear her gaze. The love of justice may not even be able to stomach the sight.

Everything we can know about emblems, the changing meanings of symbols, as well as animalistic and transcendental representations is – seemingly in passing – shared with us; and we can lose ourselves in the particularities with each new chain of themes and each new image. But the author pulls us out of these by connecting the images to material conceptions of justice up to John Rawls's *Theory of Justice* which, in all its analytical power, owes its effectiveness to one metaphor: the veil of ignorance. The gaze – indeed, the sociological gaze (*der soziologische Blick*) – to which, according to Georg Simmel, all sociological knowledge is due, is oriented in one thread of this web of text and images towards national-cultural traditions whose backgrounds feature legal cultures that appear as both framing and being framed by the figure of Lady Justice.

The secret of unmasking all of Justitiae's gazes lies in the eyes of the observer: it is a mild gaze; a humble, approachable and entirely objective curiosity that is simultaneously full of passion to learn more of Lady Justice, the omnipresent *gestalt* of an inner-worldly moral consciousness. In this respect, anyone interested in the infinite project of comparing visual cultures of the law will undoubtedly be enriched by reading this masterful work.

For Diony, my good reader,
in homage to her ninety years of age.
For my granddaughters, Julia and Jana, so that
they learn about the eyes of Justice.

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Figure 1. Justice with a blindfold over her eyes and the »Eye of the Law« on her forehead. Criminal Courthouse in Berlin-Moabit, 1906. Photo by author.

Introduction

This book about the goddess Justice has a close relationship with my earlier work, *La diosa Fortuna: Metamorfosis de una metáfora política*.¹ In both cases, I highlight the changes or metamorphoses in social life and cultural history, the transformation of mankind and also of the words, concepts, metaphors, and images humans use to interpret, understand, and express their lives. In the earlier book, I stated that the goddess Fortuna had traditionally been conceived of as a personification of the elements of human life in which chance, luck, fate, and risk play an important role. For her part, Justice has also been historically thought of as a goddess or lady, a personification of the primary civic virtue that makes human life in society possible. From Greek philosophy to the present, Justice has been imagined, conceptualized, and represented in very different ways, but the idea of considering her as the foundation of community life, the basis of the coexistence of individuals in cities and in states, has remained a constant.

Fortuna and Justice are women, the feminine personifications of complex concepts. It is worth noting that personification is a characteristic of metaphoric language that also facilitates artistic representation. My work seeks to situate itself along the trail opened up by the work of Aby Warburg and his followers on the development of iconological analysis. I am especially indebted to Erwin Panofsky's thinking on iconology and, more specifically, to the application of iconology to the analysis of politics that we find in the work of Martin Warnke and his collaborators.² Along the same lines as Thomas B. L. Webster, some time ago now the art historian Ernst Gombrich affirmed that personification was a typical form of Greek thinking tied to the characteristics of their own language:

Personification has indeed been called by Professor T. B. L. Webster a Mode of Greek Thought, and this mode, in its turn, has been linked with the peculiarity of the Greek language, matched, I believe by the Latin language, of forming abstract feminine nouns which are indistinguishable from the designation of female divinities. Max Mueller termed mythopoeic thought a disease of language, and it is indeed tempting to see in this habit one of the snares which language prepared for the unwary. In that case the belief in the literal existence of a personification would be a special case of the literal interpretation of the metaphors of language. When victory settles on the prow of the conqueror's ship she can be conceived of as a beneficent sprite or as a figure of speech.³

¹ Madrid, Antonio Machado, 2006.

² Cf. Fleckner/Warnke/Ziegler (eds.): *Handbuch der politischen Ikonographie*.

³ Gombrich: *Personification*, p. 249.

In the Romance languages derived from Latin and specifically in Spanish, the rule that all personifications of abstract concepts are feminine is upheld. Therefore, both Fortuna and Justice are women. Machiavelli wrote the famous phrase »Fortune is a woman« in chapter 25 of *The Prince* and Hannah F. Pitkin used those same words as the title for her study of the Secretary of the Florentine Republic, *Fortune is a Woman: Gender and Politics in the Thought of Niccolo Machiavelli*. Under the title *Justitia ist eine Frau*, Barbara Degen published in 2008 a book that analyzed the history and symbols of Justice.⁴ This was the catalog for the exhibition *Füllhorn, Waage, Schwert – Justitia ist eine Frau* that traveled around various German cities, beginning with Bonn, the former capital. Nonetheless, perhaps the affirmation should be put in perspective, saying instead that on the vast majority of occasions Justice is a woman, because it cannot be ignored that Justice has also been represented by male characters. Thus, for example, in religious imagery, Christ appears in all his glory as the incarnation of Divine Justice in the paintings, frescoes, and statues of the Last Judgment. And Michael the Archangel also appears as a male personification of Justice, with the sword and scales, in his role of weighing the souls of the dead, as well as in many representations of the Last judgment. Victorious generals like Scipio Africanus or kings of France like Henry III and Saint Louis were lifted up to the Olympus of the gods of justice. The political hagiography of the Emperor Charles V imagined him as a new Astraea returning to earth to usher in a new golden age. We also later see that Hobbes, in the frontispiece of his book *Le corps politique* in 1652, transformed the figure of his *Leviathan* into an image of the monarch as Justice with the sword upraised and the scales. And these are by no means the only cases. Even dictators like Saddam Hussein were extolled in images that showed them as new forms of Justice. In any event, despite all these examples, Justice is a woman in at least 90 percent of iconographic representations.

She is also historically a woman of great beauty, although today that could be considered by some as politically incorrect. What is certain is that Western tradition has portrayed Justice as a beautiful woman and Injustice as a grotesque hag. On a symbolic level, the tie between beauty and justice is very obvious in many of the pictorial representations and in the statues of Justice that adorn the town halls, palaces of justice, and other public buildings of the great European and American cities.

A woman who is naked or dressed? The majority of times, Justice is portrayed dressed in traditional clothing of the Greek or Roman period. Nonetheless, she appears naked when the artist wishes to place a special emphasis on the relationship between Justice and Truth, or when the artist wishes to underscore the eroticism of Justice as a woman who should attract the gaze and the desire of human

⁴ Cf. Degen: *Justitia ist eine Frau*. See also Warner: *Monuments & Maidens*, especially chapter 8.

beings. This eroticism was especially important in the Renaissance and Baroque periods, although it can also be seen in works prior to and after the sixteenth and seventeenth centuries. Perhaps we can find one of the best examples of this in Lucas Cranach the Elder's *Justice*, created in 1537: the young woman's nudity is highlighted by a fine veil, masterfully painted, which allows for Truth to be contemplated in the body of Justice.

We can find the completely formed canonical figure of our Western Justice starting from the middle of the thirteenth century: a beautiful woman with a powerful gaze, wearing Greek or Roman apparel, carrying in her hands the two typical attributes of the sword and scales. Normally, the sword is in her right hand, considered the most important hand because of a long cultural tradition. In later centuries, other attributes were added such as the blindfold over the eyes and the bared knee (symbol of clemency), or Justice would appear partially or completely undressed, thereby relating her to Truth – the naked Truth without veils of any kind, just as she was portrayed in the Greek and Hellenistic period. In the final third of the nineteenth century, Rudolf von Jhering in his book *The Struggle for Law* recalled that Justice should carry in one hand the scales that weigh correctly and in the other the sword that executes the law. The sword without the scales is naked power; the scales without the sword are the impotence of the law. The two go together, and the State of perfect law only exists when the force with which Justice brandishes the sword is equal to the dexterity with which she balances the scales.⁵

THE SCALES OF JUSTICE. On very few occasions, Justice uses Roman scales with just one arm. She almost always carries the Greek scales with two pans. This is based on the fact that the courts or the judges have to listen and weigh in a balanced manner the arguments of the two parties, without giving favorable treatment or discriminating between people. The scales possibly originated from Mesopotamia, in the Akkadian period, approximately between 2350 and 2100 BC. Later they were also used in Egypt as a symbol of equity in the iconographic representation of *The Book of the Dead* about the judgment of the pharaohs and the great civil servants: the heart of the deceased was weighed on one of the pans against the feather of Ma'at, the goddess of Justice, on the other. The scales with two pans (in Latin *Bi-lanx*, *bilancis*) have almost always been used, and only on a handful of occasions, the Roman scale with a single arm.

THE SWORD OF JUSTICE comes from Greco-Hellenist, German, and Judeo-Christian traditions as one of the principal symbols of Justice and the Law. It also highlights power, jurisdiction, and the ability to hold trials. Cesare Ripa spoke of

⁵ Rudolf von Jhering's book *Der Kampf um das Recht* was first published in Vienna (1872) and became very popular in translations into the majority of European languages. There is an English translation of the fifth German edition, *The Struggle for Law* (1915).

the sword raised high as a symbol of Justice that must not lean toward either side for love or hate of any person. And only in this way can the Empire be maintained.

The sword and scales have been accompanied by other symbols of Justice, the most notable of which are the following:

- The LILY ROD in the hands of the king or emerging from Christ's right ear in the Final Judgment represents the grace or clemency that should accompany Justice. It has also symbolized the power of the king and his ability to bring peace.
- The STAFF OF JUSTICE has been used as a symbol of judges and of Justice in central Europe, especially in Germany.
- The HAND OF JUSTICE, from the French tradition, was carried by the kings to symbolize their ability to judge and sentence.
- The CORNUCOPIA or HORN OF PLENTY, overflowing with fruit and other produce, shows the results of just government for the prosperity of society.
- The BOOK OF THE LAW assures that Justice must be governed by the written word that judges must heed in their decisions.
- A CROWN OF LAURELS OR GOLD above the head of Justice symbolizes her importance as the greatest of the virtues, which make social coexistence possible.
- The FASCES bundled with an axe. Cesare Ripa explains that the bundles of rods with the axe were carried by the lictors in ancient Rome. It meant that Justice should not delay in punishing the guilty, but also should not act hastily and should take the necessary time to think through judgments in the time needed to untie the bundle of rods.
- The »EYE OF THE LAW« has meant the ability of Justice to penetrate with her gaze all aspects of social life and even people's inner lives.
- MEASURING INSTRUMENTS used in Geometry or Architecture, such as the compass, squares, or rulers have sometimes replaced the scales in the hands of Justice.
- A FLAME above the head of Justice symbolizes the veracity of the judgment that rises up toward the divinity on high.
- Among the ANIMALS that accompany Justice or symbolize some of her attributes, we can find an entire Bestiary made up of lions, eagles, cranes, ostriches, doves, dogs, and serpents, among others. These animals of Justice will appear throughout the pages of this book.
- A certain COSMOLOGY also features, since Leo, Virgo, and Libra as signs of the Zodiac make up different attributes of Justice. The sun has also been used to symbolize Justice in ancient Egypt and in Greek and Judeo-Christian traditions.

On the other hand, Justice has been a part of more complex allegories in which she appears as one figure among many. As examples, we could speak of the allegories of the virtues and the vices, allegories of the good government of cities or

kingdoms, representations of »Justice, Time, and Truth«, images that compare divine justice with the justice and courts of men, or »the kiss of Peace and Justice«, which originates from the Biblical tradition and the Roman idea of the *Pax Augusta*. I shall also make reference to all these complex allegories in the following pages.

I have divided this book into two parts. The first is titled »Iconographic Traditions on the Gaze of Justice« and offers a history of the eyes of Justice in three chapters, in which the forms of representing the gaze of Justice are classified into eight artistic traditions. The first chapter of the book deals with the vast tradition of the discerning Justice whose gaze not only sees all actions but also penetrates the most intimate thoughts, desires, and intentions of human beings. This FIRST TRADITION continues in our day and began in Sumer, just like the history of Justice and history in general. It then continued in the art of ancient Egypt, reached its peak in Greek art, continued in the Roman period, and spread throughout the Christian Middle Ages, when Justice was also shown with her eyes wide open in the allegories of the Law, in the religious figures of the Last Judgment, or on the decorations of the cathedrals or town halls of cities. Of special interest in this context are the allegories of Good and Bad Government painted by Ambrogio Lorenzetti on the *Palazzo Pubblico* in Siena, as well as the comparison between Venice and Justice.

Chapter 2 will be dedicated to »The Blindfold Dispute« that began to develop at the end of the Middle Ages and the beginning of the Renaissance. The introduction of the blindfold had two opposite meanings: at first the blindfold was perceived as unjust, precisely because it denied Justice the ability to see everything. This is what I have called the SECOND TRADITION of the iconography of Justice and as we shall see, it was inaugurated by the engraving attributed to Dürer and published in Sebastian Brant's book, *Das Narrenschiff*, in 1494: a fool is the person who first puts a blindfold over the eyes of Justice. Later in chapter 2, I shall talk about the metamorphoses of these symbols and how, a short while later, a THIRD TRADITION appears, in which the blindfold over the eyes or the closed eyes of Justice are transformed into a positive symbol of the equality of all individuals before the law. In this process, the Renaissance disputes in Germany around the Protestant Reformation played a special role, as did those surrounding the introduction of Roman law, which prevailed over the various forms of common law in the organization of the courts and the imparting of justice. In this context, I analyze the criminal law codes of Bamberg, Worms, and what is called the *Constitutio Criminalis Carolina* (The Carolina Criminal Law Code, in honor of Charles V) as steps in the process of the blindfold dispute.

Chapter 3 is titled »Other Traditions on the Gaze of Justice: Extraordinary Eyes, Transparent Blindfolds, the Double Face of Janus, Astraea's Returns, and the Eye of the Law.« Here I analyze the development of other traditions of representing

Justice's gaze. A FOURTH TRADITION consists of granting Justice even sharper and more penetrating vision thanks to supplementary eyes that symbolically increase her visual capacity. A FIFTH TRADITION plays down the importance of the blindfold by making it transparent, so that Justice can see through it. This is, then, a compromise in the dispute between those in favor of and those against the blindfold. A SIXTH TRADITION consists in portraying Injustice as bias and removing the blindfold from only one of the eyes of Justice, normally the left. In A SEVENTH TRADITION, Justice closes her eyes because of tiredness, death, or grief, or in rejection of the violence carried out in her name. AN EIGHTH TRADITION shows Justice with the two faces of the God Janus, one with a blindfold over her eyes and the other without. Finally, I shall speak of two manners of reviving the first tradition: on the one hand, the returns of Astraea as the Justice of the kings and, in particular, of the queens, highlighting her discernment; on the other, the new developments of the metaphor of the »Eye of the Law« that acquired importance in the eighteenth century and which continue into the present. As we shall see later, the tradition of Justice's limitless vision never completely disappears and ends up triumphing in the historic dispute about how she is represented.

The second part of the book analyzes three important historic moments in which the crisis of the Law goes hand in hand with a search for new forms of representing the gaze of Justice. Chapter 4 explores in depth the art of Albrecht Dürer, who expressed Justice in all possible ways, since his concern for justice pervaded his entire life. Dürer created his work during the transition between the Middle Ages and the Renaissance, a period of religious tension surrounding the Protestant Reform, to which he fervently adhered, supporting Luther's cause. Dürer represented the highest artistic expression of Justice in a period of great political and religious changes. We shall analyze in detail his vision of Christ as the Sun of Justice and Universal Judge, the engravings that praise justice as a virtue of the emperor and the scenes related to justice that he painted for the decoration of the town hall of his native Nuremberg, a city with which he strongly identified.

Chapter 5 deals with the crisis of the liberal model of justice in turn-of-the-century Vienna. The cultural effervescence of the transition from the nineteenth to the twentieth century in the Austro-Hungarian Empire was very productive in different fields. I shall, of course, focus on the field of law and the artistic and literary expression of that period in two cities: Vienna, the capital of the Empire, and Prague, one of its most culturally important cities. I shall also focus on two creators: the painter Gustav Klimt, who undertook almost all his work in Vienna, and Franz Kafka, the Doctor of Law, civil servant, and author whom today we identify with the city of Prague. These two individuals are central figures in their respective fields: painting and literature. A third, Elias Canetti (1905–94), represents a generation after the turn of the century, and therefore I shall only briefly refer to him. The event that marked his youth and later his entire literary

career, the burning down of the Palace of Justice in Vienna on July 15, 1927, was the great symbol of the crisis and the collapse of liberal law after the dissolution of the Empire as a consequence of the First World War. But that date is outside the time frame of that chapter. The life of the great Karl Kraus overlapped with the three aforementioned generations and he was in touch with them from a critical standpoint. In the first place, Kraus was a fierce critic of Klimt's aestheticism and especially of his paintings for the University of Vienna ceilings, although he was not always correct in his diatribes. Secondly, Kafka was an admirer of Kraus and attended the public lecture given by him in Prague in March 1911. Finally, Canetti was one of Kraus's loyal listeners in Vienna, as he relates in the second volume of his autobiography *Die Fackel am Ohr* (The Torch in My Ear), a title that makes a direct reference to the work of the author of *Die Fackel*.

Finally, chapter 6 deals with the metamorphosis of Fortuna into Justice. Important reflections on justice in contemporary normative theory can be interpreted as ways of confronting the inequalities produced by chance and for which the individual is not responsible, but are instead due to the accident of being born into a specific family or social class, or in a particular country or at a particular point in history. What has been under debate since the beginning of the welfare state and also in the current controversy about its maintenance or dissolution are forms of justice that relate to maintaining a minimum level of well-being for all individuals which helps them to overcome their bad luck. Dürer's *The Great Fortune* fits into an old tradition that equates Fortuna and Nemesis, an ancient Greek form of Divine Justice. Jon Elster has carried out an interesting historical analysis of the judicial procedures that resorted to luck. And John Rawls's »original position« can be interpreted as a new procedure for choosing the principles of Justice eliminating the power of Fortune. An early version of this final chapter appears in Spanish as part of my book *La diosa Fortuna: Metamorfosis de una metáfora política*.

Finally, I would like to express my gratitude to all the people and institutions that have helped me to bring this project to its conclusion. My initial idea of researching the iconography of Justice came to me in April 2004 at a conference given in the Faculty of Arts and Letters of the University of Costa Rica in San José on »Concepts and Images of Justice«, at the invitation of Dean Alexander Jiménez Matarrita. In a second talk given in 2008 at the symposium of the JUS-MENACU (Justice, Memory, Narration, and Culture) research group, I had the chance to expand on some of my reflections on the gaze of Justice. I would particularly like to thank Werner Gephart, Director of the Käte Hamburger Kolleg »Recht als Kultur« (Center for Advanced Study »Law as Culture«) of the University of Bonn, for his invitation to undertake my work as a fellow of that institution during two research periods: the first between May and September 2011 and the second between June and December 2013. This book is the main outcome of these two stays financed by the University of Bonn. During my time in the former

German capital, with extraordinary working conditions in a wonderful office on the Rhine, with views of the *Siebengebirge* hills and the *Rheinauen* meadows, I completed four chapters. I am grateful to all the colleagues who helped me to undertake this interdisciplinary project, in which justice is interpreted in relation to political iconography, political philosophy, literature, art, and the law. I am also thankful to all the people who made my two stays such a pleasant experience, on an intellectual and personal level: the members of the University board, administrative personnel, students, and researchers whom I met in Bonn.

The book was completed in Madrid, combining this work with my position as a research professor at the Institute of Philosophy of the Spanish National Research Council (CSIC). Therefore, I would also like to thank the librarians at my institution, as well as my colleagues in the JUSMENACU research group and the members of the research project that I managed between 2012 and 2014: »Community and Violence: Public Spaces for the Construction of Memory and Citizenship« (FFI2011-29869-Co2-01).

First Part
Iconographic Traditions
on the Gaze of Justice



Figure 1. Justice in the Market Square of Frankfurt. Photo by author.

Chapter 1

Hymn to the Gaze of Justice

That Sees All

This chapter is entirely devoted to the analysis of the fundamental tradition about the eyes of justice. A long, historic journey will lead us from the origins of human history in Mesopotamia to the present, since it is a tradition that continues to be maintained, despite the fact that since the Renaissance it has had to take on other ways of understanding the gaze of Justice. In this original tradition, it was considered that Justice was clairvoyant. She had a powerful gaze that had to scrutinize everything, not just events that took place in the world or the actions of human beings but also their consciences and even their innermost thoughts. Individuals were just or unjust not simply because of what they did, but also because of their intentions. Over the course of these pages, we will see the points of view of various societies and historic periods regarding the insightful gaze of Justice. First Mesopotamia, then ancient Egypt, followed by the classical Greek and Roman societies and medieval Christianity, which always considered that Justice had a divine nature and therefore always represented her with her eyes open and a piercing gaze. It was in the European Renaissance when the possibility that Justice should be blindfolded was contemplated: at first it was a critical or ironic idea directed at the unjust judges who seemed to act blindly and later, it became a way of representing the impartiality of justice, which should treat people without fear or favor and had to be the same for all human beings, regardless of their social class, condition, age, or gender. We will consider this blindfold dispute in more detail in chapter two.

1. Mesopotamia: History Begins at Sumer.

In the middle of the twentieth century, Samuel Noah Kramer wrote a book that made him famous, the title of which was an outright declaration about the origins of the history of human societies: *History Begins at Sumer*. The principal hypothesis of the essay consisted in presenting a series of cultural and spiritual achievements of one of the most creative civilizations. Based on having personally deciphered many documents, Kramer explained in brief chapters the great achievements of the Sumerians in different fields: the first schools, the first case

of a »war of nerves« in international affairs, the first bicameral congress, the first historian, the first case of tax reduction, the first cosmogony and the beginnings of cosmology, the first moral ideas, the first »Job«, the first proverbs, the first »Noah«, the first story of the resurrection, the first love song, etc. The first moral ideas on humanity that are on record were written by them, and their kings were proud of restoring justice and freedom to their citizens, eliminating injustice and protecting widows and children:

The Sumerians, according to their own records, cherished goodness and truth, law and order, justice and freedom, righteousness and straightforwardness, mercy and compassion. And they abhorred evil and falsehood, lawlessness and disorder, injustice and oppression, sinfulness and perversity, cruelty and pitilessness. Kings and rulers constantly boasted of the fact that they have established law and order in the land; protected the weak from the strong, the poor from the rich; and wiped out evil and violence.¹

We find the first graphic representation of Justice in Babylon in the Akkadian period, between the years 2350 and 2100 BC. It is on a rolling cylinder, coated in ink, and reproduces a scene in which the god Shamash (also called Utu) appears in human form with two other individuals, one of whom carries weighing scales with two pans and the other a goat. The god Shamash was identified with the sun and light and with the ability to discern the truth. His gaze penetrated everything like the sun and he was considered the supreme judge of the heavens and the earth. The Sun God was represented as a man, Judge and Lord of foresight, with a hat from which rays emerged, just as they did from his shoulders, and with the symbols of the weighing scales, the sacrificial table, and a goat. This animal was going to be sacrificed so that the king could perceive the truth through its entrails, in particular, its liver. The saw he carries has different functions in different images. In the hands of the Sun God, it could serve to cut away the mountains through which he emerged in the mornings, while his assistants opened the gates of heaven for him.² What is interesting is that for the first time weighing scales appear in relation to justice, with a divine justice as powerful as the sun's gaze and the all-penetrating light. The three symbols (the scales, the penetrating look that pierces through everything, the comparison between the sun and justice) that began here would have a long history crossing the length and breadth of Western culture. Although here, in Mesopotamia, the scales were more associated with their traditional mercantile meaning because they were to be used to weigh entrails, the fact that they are near the Sun-God-King gives them a connection with justice. If we consider two other symbols that are in the hands of the Sun-God-King, the saw later transformed into the sword that had to enforce justice,

¹ Kramer: *History Begins at Sumer*, pp. 152 et seq.

² Cf. Ossendruver: *Die Sonne im Alten Orient*, p. 56.



Figure 2. Cylinder seal from the Akkadian period, between 2350 and 2100 BC. From *Gods, Demmons and Symbols of Ancient Mesopotamia: An illustrated Dictionary*, by Jeremy Black and Anthony Green. Illustrations by Tessa Rickards, London, The British Museum Press, 1992, p. 183. Reproduced with permission of The British Museum Press.

and the rod or scepter became the rod of justice that gave the judge his dignity. In addition, the figure appears seated in the position that many centuries later would be obligatory for judges that had to preside over courts and ponder their sentences³. All this makes this image an important precedent for other historic representations that we will see over the course of the following pages.

On the other hand, Judith Resnick and Dennis Curtis, in their magnificent and well documented book *Representing Justice: Invention, Controversy and Rights in City-States and Democratic Courtrooms*, remind us that the symbols of the zodiac, one of which is Libra and is represented by scales, may date back to ancient Mesopotamia:

At some point, perhaps as early as 2000 BCE, people linked the autumnal equinox (when day and night are »equal« in time) and the patterns of stars visible in the fall season (particularly the constellation now called Libra) to the time at which god(s) made judgments about the fates of people (either living or newly dead). [...]

What these images show us is that the picture of a particular kind of scales and the act of judgment became entwined in an area between the Euphrates and the Tigris more than four thousand years ago. Via the Roman Empire, this imagery moved across both land and many political configurations to form symbols that remain recognizable today.⁴

³ Ibid., p. 57.

⁴ Resnick/Curtis: *Representing Justice*, p. 18.

Also, it is necessary to refer to the various codifications of laws carried out in Mesopotamia, the best known and most important of which is the code of HAMMURABI, the sixth king of Babylon who ruled for almost forty-three years, approximately from 1792 to 1750 BC. The code was created around the year 1772 BC and consists of a set of 282 laws dealing with the most diverse subjects. One set of laws refers to the family and regulates matters relating to marriage, dowries, divorces, inheritances, paternity, and adultery. Another set of laws regulates the relationships between citizens on a great variety of levels, including military service, religious duties, contracts of sale, the salaries that must be paid to a hauler or a doctor, commercial relationships, slavery, the duties of workers, and the liability of a builder if a structure collapses. In this last case, various possibilities are set out: if the collapse causes the death of the owner, the builder must die (law 229), but if the death is that of the owner's son, it is the builder's son who must be executed (law 230). This fulfills the *Lex Talionis*, which is formulated in the well-known phrase »an eye for an eye, a tooth for a tooth« or literally in law 196: »If a man put out the eye of another man, his eye shall be put out«.⁵ Nonetheless, the *Lex Talionis* was not always applied literally, rather on many occasions the punishments were adjusted according to the importance of the person, whether he was a free man or a slave. Medical mistakes were also very costly, as established in law 218: »If a physician make a large incision with the operating knife, and kill him, or open a tumor with the operating knife, and cut out the eye, his hands shall be cut off«.⁶ Nonetheless, in the context of this book I should refer to the control exercised over judges and their erroneous verdicts, which could lead to expulsion from their profession, as expressed in law 5:

If a judge try a case, reach a decision, and present his judgment in writing; if later error shall appear in his decision, and it be through his own fault, then he shall pay twelve times the fine set by him in the case, and he shall be publicly removed from the judge's bench, and never again shall he sit there to render judgment.⁷

From the point of view of legal iconography, the diorite stele in the shape of an enormous index finger, 2.25 meters in height, on which the Hammurabi code is written in cuneiform in the Akkadian language is very important. Above the code, on what would be the nail of the finger, appears Hammurabi with the symbols of his power, in animated conversation with the god Shamash, supreme Judge, God of the Sun, possessing an infinitely sharp sense of vision. The original of this stele is found in the Louvre Museum but various copies also exist in the University of Chicago, the Library of the Theological University of the

⁵ Hammurabi's Code of Laws, law 196.

⁶ *Ibid.*, law 218.

⁷ *Ibid.*, law 5.



Figure 3. The upper part of the stele of Hammurabi's code of laws, around 1792–1750 BC. Hammurabi converses with the god Shamash. Below is the text of the laws. Paris, musée du Louvre. Photo © RMN-Grand Palais (Musée du Louvre)/ Hervé Lewandowski.

Reformed Churches in Holland, the Pergamon Museum in Berlin, and the National Museum of Iran (Tehran). In addition, various representations of the code have been found on clay tablets with just the text, some of them predating the Louvre Museum stele.

2. Ancient Egypt: The Sun of Justice and the *Book of the Dead*

The comparison between the Sun and Justice has a long history that crosses many cultures. The well-known Egyptologist Jan Assmann asserts that the likening of light to justice is a universal motif that already appeared in ancient Babylon: the sun god Shamash is the Lord of Truth and Justice. Also, in the Egypt of the Pharaohs, the light of the sun symbolized Truth and Justice embodied by the goddess Ma'at. Mozart aptly expresses at the end of *The Magic Flute*, set in Egypt, that »the rays of the sun dispel the night.« In Jan Assmann's words:

Ma'at is the goddess of the first hour of the day. Each hour is under the aegis of a specific deity: the dawn belongs to Ma'at. The cosmogonic nature of light, she who creates order and gives guidance – her internal relationship with cosmic Justice – never manifests as clearly as in her morning glimmer that pushes back the darkness. The emergence of the sun brings judgment upon those enemies who were able to wreak evil during the night. With the morning, the Sun god emerges as savior and judge, just as the victorious and punitive king appears like the dawn sun.⁸

Therefore, the »Sun of Justice« is represented by the dawn eliminating the darkness of the night and of evil, and it reestablishes the cosmic order denied by the night and darkness. This appearance of the Sun as savior and as judge has a double function: in the first place, the just receive their rewards at the same time as the wicked receive their punishment; also, it legitimizes the power of the king as judge and conqueror of enemies, when likening him to Ma'at, the cosmic justice. Ma'at, daughter of Ra, the Sun-God, helps her father to maintain the workings of the cosmos and accompanies him on his travels during the day but above all during the night, in the darkness of the underworld, until the dawn of a new day, in which the sun emerges victorious once again over the shadows of the night. This cosmological theory of justice means that the individual has to submit to an order that is not within oneself but in the cosmos. The cosmic order is the model for the sociopolitical and personal orientation of mankind.⁹

The concept of Ma'at is very difficult to translate to other cultures because it means many different things, although they are related among themselves. In addition to the order of the cosmos or the cosmic justice that I have just mentioned, Ma'at also means morality and the ways in which individuals interact in their social relationships, men's solidarity with one another and freeing the weak from exploitation by the powerful. Ma'at represents divine justice in the judgment of the dead and its symbol is the ostrich feather, the only one that has barbs of equal

⁸ Assmann: Ma'at, p. 184.

⁹ Cf. *ibid.*, p. 34.